

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

ZACHARY WHITMORE,

Plaintiff,

v.

CIVIL ACTION NO. 3:18-1483

WESTERN REGIONAL JAIL, ET AL.;

Defendants.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Defendants' motions to dismiss (ECF Nos. 21, 30, 36, 39, 41); dismiss the Complaint in its entirety, with prejudice (ECF No. 3); and remove this matter from the docket of the Court. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **GRANTS** Defendants' motions to dismiss (ECF Nos. 21, 30, 36, 39, 41); **DISMISSES** the Complaint in its entirety, **with prejudice** (ECF No. 3); and **REMOVES** this matter from the docket of the Court, consistent with the findings and recommendations. Although the Magistrate Judge fully addressed Defendant Sergeant Franklin's status in the findings and recommendations, Defendant Franklin filed a Motion to Dismiss. ECF No. 48. The Court

**DISMISSES** Defendant Sergeant Franklin and, as a result, **DENIES** his Motion to Dismiss as moot.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: August 7, 2019

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE